

Previous references.

1903-04

File No. 157 of 03

Serial Nos. 1-6

(Courts)

Later references.

Courts Ho 70 of 04/05

B

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-6

Part B. for

SUBJECT.

Appeal against the order of the acquittal of the accused persons in Sessions Case No 9 of 1903-04 on the file of the Shemaza Sessions Judge (Govt vs Lamma Eza & others)

Table of Contents

- ✓ Sl No 1. From the District Judge Shemaza ho 304 of 27-11-03 requests an appeal may be preferred to the Chief Justice in the above case.
- ✓ Sl No 2. To the Joint Advocate ho 1198 of 14-12-04
- ✓ Sl No 3. In view of his opinion in the matter.
- ✓ Sl No 4. From the Joint Advocate ho 118 of 16-12-04. States the case is not a fit one for appeal
- Sl No 4. To the Joint Advocate, District Shemaza & Co. (Govt vs Lamma Eza & others)
- G. R. S. 58 ho 1371-3 of 6-1-04.
- Directs the Joint Advocate to prefer an appeal.

0, 5- From the foot advocate
No 144 2, 22. 1 04
Requests the records of the case
may be got printed -

6, To foot Advocate Rep. B. A.
The 6 feet & 1/2 foot Press
13- 1928-1-03

Sanctions the printing of
the records -

Office of the Dewan of Mysore.

File No. (if any)

Directions.

No., date and purport of receipts to be entered in red, and office note in black ink in order of dates.—To be written only on one side, and inside the line of margin.

Office Note.

Branch Judicial

Subject Appeal

T Letter no 304 dated
27th November 1903, from
the D^r Magistrate, Shimoga, request-
ing that an appeal may
be directed to be filed in
the Chief Court, against
the order of acquittal of the
accused persons passed by
the Sessions Judge, Shimoga
in Shimoga Sessions Case
no 8 of 1903-04.

The D^r Magistrate considers that
there has been a miscarriage
of justice and requests an
appeal being preferred to the
Chief Court.

Subd for orders with draft
to Govt Advocate.

At Shimoga
7/12/03 I think there is a good
case for an appeal &
that the evidence of prosecu-
tor's witnesses has been ~~very~~ set aside
by the Sessions Judge on inadequate
grounds. Part 26 to 34 of the judgment may
be referred to in particular. I think
however he called for in the first
instance.

ll
5-12-03

The Govt Advocate
considers that the case
is not a fit one for
appeal, as the evidence
adduced by the prosecution
to connect the accused
is not strong and sufficient
to convict the accused.
Subd for order with a diff

2/12/03

2/12

2/12/03

The Dewan
through the 2nd
Councillor

589
22-12-03.

The Government Advocate admits that there was a strong motive. He, however, thinks that the evidence against the accused is not sufficiently strong and conclusive. His report is laconic. Is this all that we have a right to expect from our legal adviser? My own opinion is that there is abundant evidence against the accused. The Sessions Judge is of opinion that there was a murder and that the accused were probably responsible for it. He thinks, however, that the evidence against the accused is weak. In this opinion, I do not concur. I agree with the Superintendent of Police and the District Magistrate that there has been a miscarriage of justice in this important case and that an appeal ought to be prefer-

preferred. Please have a memorandum of appeal drawn up by Mr. Chendrasekhara Iyer and let me see it before submission to the Dewan. I hope the Government Advocate will urge the appeal as strongly as he ought to.

b. greenwaser
25/12/03

25/12/03

A memo: of appeal is intro to the 20 CR for approval. I have altered the draft order in pencil; ^{the} ~~the~~ intro, if appd

605
28.xii.03.

28-12-03

I think this is a case in which we ought to prefer an appeal - Mr Chendrasekhara Iyer's memorandum of appeal is all that could be desired and I accordingly agree to it - There has been a miscarriage of justice, and I do not think Govt. would be wrong in ~~saying~~ that letting the plea I have proposed -

I agree to the alteration proposed in the draft order - A.

29-12-03

all right
und
31.xii.03

3/1/4.
Subd to the Dewan
29/12/03

30.12.03.
14977

In the Chief Court of Mysore.

Appeal under section 417 of the Code of Crim:Procedure
against the judgment of the District and Sessions Judge,

Shimoga Division,

in Shimoga Sessions Case No.8 of 1903-04,

(Government versus 1.Sanna Eera,

2Chenna,

3.Adavi.)

29-12-03
Memorandum of Appeal.

1. The Sessions Judge has erred in acquitting the accused persons, even though he admits that the case against them is not devoid of foundation and that, in his own individual opinion, some or all of ~~the accused~~ ^{Thamma} caused the deceased Thimma's death.

2. The reasons given by the ~~learned~~ Judge for thus acquitting the accused are unsatisfactory and inadequate.

3. The Sessions Judge has not given due weight to the facts which he himself has found to be true; namely (among others), that the accused persons had very strong motives for getting rid of the deceased Thimma before the date of the Civil Suit which had been posted in the Munsiff's Court for hearing on the Saturday next before the date of the murder; that all of them were at the scene of occurrence about the time of the murder, while no others are shown to have been so present and likely to have committed the crime; that Thimma cried out ~~oh~~ for help at the time.

4. The Sessions Judge has erred in setting aside the very important evidence of the 6th Prosecution witness Holebasayya, corroborated as it is by the evidence of the 7th, 8th and 9th witnesses, and by the significant fact (not apparently noticed by the ~~learned~~ Judge) that the names of the ~~6th~~ 6th and 7th witnesses were mentioned in the inquest proceedings which were drawn up very shortly after the murder as the persons who knew about the occurrence.

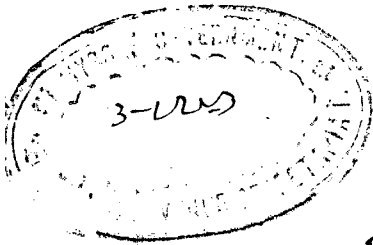
5. The Sessions Judge has also erred in discrediting without sufficient cause the evidence of the 11th, 12th and 13th prosecution witnesses.

6. There is no evidence whatever on behalf of the accused persons to rebut the evidence adduced by the prosecution.

7. The circumstances and the probabilities of the case point strongly to the accused persons as the real murderers.

✓ 2004-2005

29-12-03



No 3194 / 184 2-12-03
 121

Forwarded.

Inspector General of Police

30/11/03

J 863
 1903. 16/11/03

FROM N. Venkata Rao Esq.
 District Magistrate
 Shimoga
 To H. V. Nanjundayya Esq. M.A. LL.B.
 Secretary to Government
 Genl & Riv Depts.
 Through the Insp. Genl of Police
 in Mysore.
 Dated 27th
 Despatched November 1903.
 Received

General No. 304
 No. 15.

Enclosure No. 4

Forwards copy of Judgement
 in Shimoga Sessions case no 8
 of 03-04 and requests that
 Govt may order the Govt
 Advocate to prefer an appeal
 to the Chief Court if it deem
 fit.

Jrol
 3.12.03

No 304. Su 4.
15

District Magistrate's Court

Shimoga 27th November

Serial No 1

1903.

From N. Venkata Rao Esq.

District Magistrate

Shimoga.

To H. V. Nanjundayya Esq., M.A., M.L.

Secretary to the Government of Mysore

General & Revenue Depts.

Through the Inspector General of Police
in Mysore.

Sir,

I have the honour to submit herewith
a copy of Judgment in Shimoga Sessions
Case No 8 of 1903.04 acquitting the accused
persons Sunna Ira and 2 others of the offence
of Murder under Section 302 I.P.C. and to
state that for the reasons set forth in the
accompanying letter No 345 dated 12th November
1903 from the District Superintendent of Police,
Shimoga, I consider that a miscarriage
of justice has been caused by the acquittal
of the accused.

2.

The facts of the case are clearly
set forth in the Superintendent's above letter

2

as also in the committing Magistrate's resume
copy of which is enclosed for reference.

3. A perusal of the copies of depositions
of witnesses recorded by the Sessions Judge
and the Judgment in the case will shew that
the accused persons now acquitted had every
motive to murder the deceased Thimma and
that they were the real murderers. The final
Judgment of acquittal passed by the Sessions
Judge is not consistent with the expressions
recorded by him in para 34 of his Judgment
that "in his individual opinion all or some of
the accused caused the deceased's death in an
altercation &c. and that they had strong
motives to do so".

4. The case is an important one and
I may add that the consequences of an erroneous
acquittal in a case like this are very serious.

5. If the Government agree
in my view that this is a fit case for an
appeal to the Chief Court, I beg to re-
commend that the Government may be
pleased to direct the Government Advocate
to present an appeal to the Chief

Here with the Sent

could as early as possible ..

I have the honour to be,

Sir,

Your most obedt Servt

N. Unhadas Rao

District Magistrate
Shimoga

Yours

To,

Serial No 2

The Government
Advocate
in Mysore

✓
Dated 14.12.03.

No. 1198 ✓
✓
Enc 1 + 1 files of record.

In forwarding
herewith a copy of
letter no 304
15 dated
27th November 1903,
from the D^r Mag^r,
Chinnappa D^r, together
with its enclosures
in original, requesting
that an appeal may
be filed against the
order of acquittal of
the accused persons,
passed by the Sessions
Judge, Chinnappa D^r,
in Chinnappa Sessions
case no 8 of 03-04,
has the honour

No

By hand.
12/12/03

to request that the
Jock Associate will
be so good as ^{to} furnish
Jock with his opinion
at a ~~very~~ early date
as to whether the case
is a fit one for appeal
to the Chief Court, together
with the grounds for
such opinion, ~~at a~~
~~very early date.~~

By order

John

11/12/3
The Secretary

37/12/03

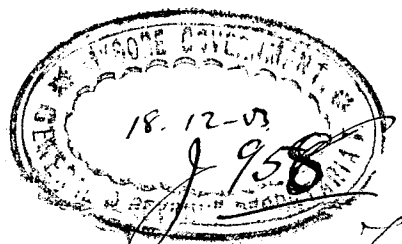
No. 118

Encl. no: 1 file of records

Office of the Government Advocate
in Mysore.

Dated 16th December 1903

For
18/12/03



From

Serial no 3

The Government Advocate
in Mysore.

To
The Secretary to the Government
of Mysore, Revenue & General
Departments.

Sir,

In reply to your letter
No: 1198 dated 14th Instant, I
have the honor to state as follows.

A strong motive on the
part of the accused, as also
enmity has been proved and
found to exist by the Sessions
Judge. But enmity by itself
is not sufficient. The evidence
adduced by the prosecution
to connect the accused, is not

7
not strong and sufficient to
convict the accused.

I am therefore of opinion
that it is not a fit case to
appeal against the order
of acquittal.

The enclosures are herewith
returned.

I have the honor to be
Sir
Your most Obedient
Servant.

S. Farnsworth
Government Advocate

Serial no 14

13-1-04

Read: —

Letter no 304
15

Dated 27th November
1903, from the D^y Mag^{te}
of Shemaga, forwarded
with no 3194 dated 2nd
December 184
1903, of the
Inspector General of
Police, requesting
that the Govt. Advoca-
-cate may be directed
to prefer an appeal
to the Chief Court
against the order
of acquittal of the
accused persons
passed by the Session
Judge in the above
case no 8 of 1903-04.

(2) Letter no 118 dated
16th December 1903, from
the Govt. Advocate
in Mysore, ^{on the subject of} ~~stating~~
that in his opinion
the above is not a
fit case for appeal
to the Chief Court

Dismissed for time not
but I am afraid he has
not just received
the case - This may
be a case
may be a case
be a case

Order

Order thereon: - 1371-399 6/1/04

~~9~~ Govt concurs
with the Govt Adv.
-case and decline
to direct the filing
of an appeal in
the case referred.

Govt consider that there
has been a miscarriage of
justice in this case, and that
there are good grounds for
filing an appeal to the
Chief Court against the
acquittal by the District
Judge of the accused person.
The Govt Advocate is
directed to file an appeal
accordingly. cl.

~~For~~

Secretary

h
28/12/03

29/12/03.

2. The Govt Advocate
in Mysore, with head of a memorandum of
appeal to be amplified if necessary & with a
copy of the judgment to be appended against
the D.L. Magistrate of
Chinnaga. This
The Department of
Police in
Mysore, re sending
in copies.
Registration Chief Clerk

also with the enclosure recd from the D. Magistrate of Chinnaga for reference. cl.

29/12/03

und

31. XII. 03

put this should, some letter

2 days.

h
4-1-04

The enclosure recd from the
D. Magistrate be sent to
the Govt Adv. to enable him
to study the case - cl.

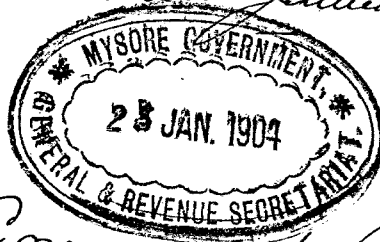
4-1-04

24/12/03
4-1-04

No 144

Office of the Government
Advocate in Mysore.

Dated 22nd January 1904



J 11/4

From
Serial no 5 - The Government Advocate
To
in Mysore.

From The

Secretary to the Government
of Mysore, Revenue
and General Departments.

28/1/4

Sd.

In Criminal appeal

No 149 of 1903-1904. Government #

1. Sanna Bra; 2. Chenna; 3. Adavi,

filed under the orders of Government

No: 1371-3 dated 6th January 1904,

the Chief Judge remarks, that

the record may be printed, as

the accused are charged with

Murder, and there are 20 witnesses

for provocation. I request that

orders may be passed to have

the records printed.

In criminal appeal No: 17
of 1903-04. against the order of

acquittal, the records were
ordered to be printed by the
Government in the Forest Department

I have the honor to be

Sir.
Yours most Obedient-
Servant
S. R. Srinivasan
Government Advocate.

Read:—

Serial 206

Q.
5/2/04

Letter no 144 dated 22nd January 1904 from the Govt Advocate in Mysore, stating that the Chief Judge is of opinion that the records in Criminal appeal no 149 of 1903 (Govt v. Sanna Bra & 2 others) filed under Govt Order no 1371-3 dated 6th January 1904, should be ~~to~~ printed as the accused are charged with murder and there are 20 witnesses for the prosecution, and requesting therefore that sanction may be accorded to have the records printed.

✓
1481-3 928/1/04
J

Order thereon:—

Sanction is accorded to the printing

printing of the record
in the case referred to.

Secy 008)

Byron
Secretary

To the Govt Advocate
in Mysore
The Registrar
Court
The Supd, for Mys